

Comparison of Mediation, Complaints and Due Process Hearings

MEDIATION	COMPLAINT	HEARING
Informal process	Investigative process	Formal legal proceeding
Parents and ITP staff/contractors speak for themselves Mediator facilitates	Parent and ITP staff/contractors speak for themselves	Attorneys speak for parties
Settlement is voluntary	Lead agency imposes a decision on the parties	Hearing officer imposes a decision on the parties
Parents shape their own agreement; flexible, creative, “custom fit” solutions result	Lead agency determines the facts, conclusions, and requires corrective action	Hearing office determines the facts and imposes a solution
Cooperative problem solving between the parties is encouraged	Review of facts and data by lead agency – little cooperation between the parties	Tension and hostility between parties may be increased as they can be cast in adversarial positions
Scheduled in 30 days Lasts a few hours	Time limit - No more than 60 days after the complaint is filed to investigate and issue written decision	Scheduled in 30 days May last 1-3 days
Discussion allows participants to focus on planning the child’s future early intervention services together	Focus on determination of whether there have been violations of law or regulation	Evidence and testimony are presented as the basis for a decision about the child’s early intervention services
Facilitated discussion and problem-solving between parties	Lead agency offers technical assistance	Parties are subject to cross examination
Little preparation is required	Moderate preparation is required	Extensive preparation is required
Cost is minimal for ITP	Cost is moderate for ITP (response to inquiry, provision of documents, etc.)	Costs are extensive for ITP (preparation, representation, expert witnesses, days at hearing)

Mediators encourage understanding and a working relationship	Lead agency encourages negotiation and conciliation	Little attention is paid to the parties' relationship
--	---	---